

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

Brett Williams,

Plaintiff,

V.

Wells Fargo Bank, N.A.,

Defendant.

Civil Action No.: 3:15-cv-291

COMPLAINT

For this Complaint, the Plaintiff, Brett Williams, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Brett Williams (“Plaintiff”), is an adult individual residing in Burleson, Texas, and is a “person” as defined by 47 U.S.C. § 153(39).

4. Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), is a Georgia business entity with an address of 40 Technology Parkway South, Suite 300, Norcross, Georgia 30092, and is a “person” as defined by 47 U.S.C. § 153(39).

FACTS

5. Within the last four years, Wells Fargo called Plaintiff's cellular telephone, number 817-xxx-6691, in an attempt to collect a consumer debt.
6. At all times herein referenced, Wells Fargo contacted Plaintiff at his cellular telephone by using an automated telephone dialer system ("ATDS") and/or by using an artificial or prerecorded voice.
7. When Plaintiff answered the calls, Wells Fargo used an automated or prerecorded voice.
8. In November of 2014, Plaintiff directed Wells Fargo to stop all calls to him.
9. Thereafter, despite having been instructed by Plaintiff not to call, Wells Fargo continued to call Plaintiff's cellular telephone at an excessive and harassing rate, placing approximately three calls per day, multiple days per week for successive weeks.

COUNT I
VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, et seq.

10. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
11. After knowing that Plaintiff did not want to be called, Wells Fargo continued to call the Plaintiff by means of automatic telephone calls and using a prerecorded voice at a cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii).
12. Wells Fargo's telephone system has the capacity to store numbers in a random and sequential manner and uses the system to place the calls.
13. The telephone number called by Wells Fargo was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

14. The calls from Wells Fargo to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

16. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: January 29, 2015

Respectfully submitted,

By /s/ Jenny DeFrancisco

Jenny DeFrancisco, Esq.
CT Bar # 432383
LEMBERG LAW L.L.C.
1100 Summer Street, 3rd Floor

Stamford, CT 06905

Telephone: (203) 653-2250

Facsimile: (203) 653-3424

E-mail: jdefrancisco@lemborglaw.com

Attorneys for Plaintiff